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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,520	12/28/2000	James B. Loveland	7927.131	6676

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,520

Applicant(s)

LOVELAND, JAMES B.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-33 are presented for examination.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-29 and 31-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-13 comprise modules *per se*, which are interpreted as software modules. Consequently, claims 1-13 are directed toward software *per se*, which is non-

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statutory subject matter. In order to overcome this rejection, it is respectfully suggested that the software modules be explicitly recited as executed by a computer.

Claims 14-29 are directed toward a method and recite a useful, concrete, and tangible result; however, claims 14-29 only recite a nominal recitation of the technological arts. Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. Solely entering data via a computer is not deemed to apply, involve, use, or advance the underlying process. In order to overcome this rejection, it is respectfully suggested that at least one of the core steps of the invention (e.g., estimating cost) be expressly recited as performed by a computer.

Claims 31-33 recite a signal *per se*, which is not deemed to be statutory subject matter. In order to overcome this rejection, it should be clarified that the signal is statically embodied on a signal-carrying medium.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-13, 26, 27, and 31-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the training module, estimating module, and purchasing module are "capable of" performing various functions. The phrase "capable of" is vague and indefinite as it is not clear whether the respective functions are actually carried out or not.

Claims 3, 8, 10, 11, 26, and 31 recite that various functions "may" be performed. The term "may" is vague and indefinite as it is not clear whether the respective functions are actually carried out or not.

The functionality recited in claim 8 is not expressly supported by any structural element; therefore, it is not clear that this recited functionality merits patentable weight in an apparatus claim.

Claims 2, 4-7, 9, 12, 13, 27, 32, and 33 are dependent from claim 1, 26, or 31 and, therefore, inherit the same rejections, respectively, under 35 U.S.C. 112, 2nd paragraph.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-6, 9-21, and 24-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaelble ("Best Man: Do It Best Corp., Based in Fort Wayne, is a \$2.2 Billion National Hardware Cooperative") in view of Pack ("These Old Web Sites").

Kaelble discloses an integrated computerized system for preparing for the accomplishment of a task, said system comprising:

[Claim 1] a training module capable of providing interactive training to a user regarding how to perform said task (§ 19 – Advice and project tips, including articles and video clips are offered, upon request at the Do It Best web site, to a user);

a purchasing module capable of providing means for purchasing said materials (§§ 17, 19);

[Claim 9] wherein said purchasing module comprises an on-line link to at least one retailer who can provide said materials (§§ 17, 19);

[Claim 11] wherein said user may purchase said materials online (§§ 17, 19);

[Claim 13] wherein said system is implemented as an integrated web site (§§ 17, 19).

Regarding claims 1 and 6, Kaelble discusses various details of the Do It Best web site; however, this web site does not expressly provide users with an estimating module that estimates the cost of materials required to perform a desired task. Pack makes up for this deficiency in its teaching of the services offered by various home improvement web sites. Pack's article suggests that the Internet is a convenient source of a wealth of knowledge for those interested in completing home improvement projects (§§ 1, 20). As explained by Pack, not only are there web sites (such as Faucet Outlet

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Online) that assist customers in selecting and purchasing materials (§ 19), but there are also several web sites that make job estimate calculators available to users via the Internet. For example, This Old House's web site has a "Calculation subsection [that] includes conversion tables, workshop reference charts, and-coming soon-Internet enabled calculators that 'will simplify preparation efforts for your next project by helping you estimate job costs and materials required before you begin.'" (§ 7) Similarly, a web site associated with the Home Improvement Encyclopedia from Better Homes and Gardens Online "offers several online Project Calculators, including a Paint Estimator, a Drywall Estimator, and a Lumber Cost Estimator." (§ 13) The Do It Best web site provides similar services to its users as those described by Pack; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate with the Do It Best web site an estimating module capable of estimating the cost of materials required for said task, wherein said estimating module allows said user to estimate the cost of obtaining said materials and said supplies required to perform said task in order to enhance the convenience and access to knowledge for those interested in completing home improvement projects (as suggested by Pack, §§ 1, 20), thereby encouraging repeat patronage from its customers.

Regarding claim 2, Kaelble teaches that users are provided with online training for home improvement projects; however, Kaelble does not expressly disclose that the training comprises online multimedia exercises. Official Notice is taken that it is old and well-known in the art of online training to test a user's retention of the training material in

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order to assess the competence of the user to carry out tasks associated with the training material. Many home improvement projects, such as electrical rewiring, can pose dangerous living conditions if performed improperly; therefore, it is crucial for the inhabitants of a home that the person(s) performing the home improvements projects are competent to perform the necessarily tasks involved. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Kaelble's training module to incorporate on-line multimedia exercises in order to help a user truly assess whether or not he/she is competent to complete a given home improvement-related task(s), thereby serving to mitigate the chances of a home improvement project leaving the inhabitants of the home exposed to unsafe living conditions, such as those arising from faulty electrical wiring.

As per claim 3, a user of the Kaelble-Pack combination would need to input information relating to a desired task in order for the estimating module to correctly perform the material cost assessment.

In reference to claims 4 and 5 and as discussed above, Kaelble allows a user to receive training for a specific task and order needed materials and supplies. Kaelble's users can take advantage of online training and then use this knowledge to order the proper materials and supplies; therefore, Kaelble's users effectively are enabled by knowledge gained during their "training sessions" to compile and edit a task specific database of materials and supplies required to perform a desired task (as per claim 4). Kaelble does not expressly teach that the task specific database itself is transferred to

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the estimating and purchasing modules; however, the combination of Kaelble-Pack yields the integration of a training module, estimating module, and purchasing module as an Internet web site. The step of transferring a task specific database to an estimating and purchasing module more fully automates the Kaelble-Pack combination by preventing a user from having to repeatedly enter task, materials, and supplies information in the various modules. Official Notice is taken that it is old and well-known in the art to automatically pass relevant data back and forth from distinct computer modules in order to mitigate the need to repeatedly enter the same data by hand, thereby saving time and reducing the potential for error normally associated with manual data entry. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance the Kaelble-Pack combination by incorporating the ability to transfer a task specific database to the estimating and purchasing modules, thereby saving time and reducing the potential for error normally associated with manual data entry.

Regarding claims 10 and 12, Kaelble discusses various details of the Do It Best web site; however, this web site does not expressly provide users with the ability to select geographic vendors, wherein the purchasing module allows a user to contact a professional to perform a task. Pack makes up for these deficiencies in its teaching of the services offered by various home improvement web sites. Pack's article suggests that the Internet is a convenient source of a wealth of knowledge for those interested in completing home improvement projects (¶¶ 1, 20). As explained by Pack, not only are there web sites (such as Faucet Outlet Online) that assist customers in selecting and

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purchasing materials (§ 19), but there are also several web sites that help customers locate contractors within a local area. For example, Pack states, "The site sponsored by the National Electrical Contractors Association (<http://www.necanet.org>) offers not only information for professionals but also a Find a Contractor search engine that can help you locate a professional in your area." (§ 18) The Do It Best web site provides similar services to its users as those described by Pack; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate with the Do It Best web site the ability for a user to select geographic vendors (claim 10), wherein the purchasing module allows a user to contact a professional to perform said task (claim 12) in order to enhance the convenience and access to knowledge for those interested in completing home improvement projects (as suggested by Pack, §§ 1, 20), thereby encouraging repeat patronage from its customers.

[Claims 14-21, 24-29] Claims 14-21 and 24-29 recite limitations already addressed by the rejection of claims 1-6 and 9-13 above; therefore, the same rejection applies.

[Claim 30] Claim 30 recites limitations already addressed by the rejection of claims 1-6 and 9-13 above; therefore, the same rejection applies.

[Claims 31-33] Claims 31-33 recite limitations already addressed by the rejection of claims 1-6 and 9-13 above; therefore, the same rejection applies.

As per claim 33, please note that the Internet (disclosed by Kaelble) is a global information network.

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9. Claims 7, 8, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaelble ("Best Man: Do It Best Corp., Based in Fort Wayne, is a \$2.2 Billion National Hardware Cooperative") in view of Pack ("These Old Web Sites"), as applied to claims 6 and 21 above, and further in view of Porter ("The Pitfalls of Doing It Yourself").

As per claims 7 and 8, neither Kaelble nor Pack expressly teaches that the estimating module allows a user to estimate the cost of professional services to accomplish a task, wherein the user may compare the cost of professional services to the cost of obtaining needed material and supplies to evaluate whether any savings incurred by performing the task are justified. However, Porter's article centers around the question "how do you decide when you should do the job yourself and when you should hire a professional?" (§ 4) Porter provides the following pieces of advice:

"As a rule of thumb, it will take even a skillful amateur two or three times as long as a pro to perform most jobs," says Paul Spring, a former contractor and editor who is now a product manager for a toolmaker firm.

This estimate does not include the time required to plan your work, to make extra trips to the hardware store to rent tools or to get parts that most tradespeople have in their tool kit.

Spring also points out that while a professional will be working full time on a project, most homeowners have other jobs. Therefore, projects may extend over weeks instead of days.

"If the work is in a kitchen or other high-traffic area, be sure that you and your significant other are realistically prepared for the possible duration of the project," Spring says.

People who psychologically need tasks to be completed in a short period might stick to smaller projects.

Finally, for some people, time literally is money.

Those who frequently bring work home from the office or work out of their homes might find their careers or incomes adversely affected by lengthy do-it-yourself projects.

On relatively small jobs, however, you can save substantially by doing the job yourself instead of calling in a professional for an hour or two. (¶¶ 11-18)

Porter explains that money, time, and career demands are all factors in determining whether one should do a home improvement job on one's own or hire a professional. Clearly, Porter's advice is meant to help a homeowner decide whether it is truly worth it to hire a professional versus complete a home improvement project on one's own. Kaelble, Pack, and Porter all serve to assist individuals in conveniently and more easily making wise decision regarding home improvement projects; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with the Kaelble-Pack combination the service of providing an estimating module that allows said user to estimate the cost of professional services to accomplish said task (claim 7), wherein said user may compare said cost of professional services to said cost of obtaining said material and said supplies to evaluate whether any savings incurred by performing said task are justified (claim 8) in order to help a homeowner decide whether it is truly worth it to hire a professional versus complete a home improvement project on one's own. Furthermore, while Porter's advice is not expressly implemented in a computerized format, the Examiner takes Official Notice that it is old and well-known in the art to utilize a computer to perform calculations commonly performed by hand in order to complete such calculations with greater speed and accuracy. For the same reasons, the

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Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to perform the steps of claims 7 and 8 using a computer in order to complete such calculations with greater speed and accuracy.

[Claims 22, 23] Claims 22 and 23 recite limitations already addressed by the rejection of claims 7 and 8 above; therefore, the same rejection applies.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

 "DIY Deck Boosts Sales, Credibility" -- Discloses details of the Design Center kiosks that assist customers in planning to build a deck.

 Hometime Web Site

(<http://web.archive.org/web/.../www.hometime.com/projects/projects.htm>) -- Provides users with assistance in performing various home improvement projects.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

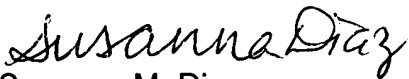
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or faxed to:

(703)305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703)746-7048 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.


Susanna M. Diaz
Primary Examiner
Art Unit 3623
June 14, 2004